



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	<b>07/17/01</b>	Bill No:	<b>AB 173</b>
Tax:	<b>Integrated Waste Management</b>	Author:	<b>Chavez</b>
Board Position:	<b>Neutral</b>	Related Bills:	

### BILL SUMMARY

This bill would extend the January 1, 2002, sunset date on the exemption for the use, disposal, or placement of solely inert waste on property where surface mining operations are being conducted.

### ANALYSIS

#### Current Law

Under current law, the Integrated Waste Management Fee is imposed on each operator of a disposal facility based on the amount, by weight or volumetric equivalent, as determined by the IWMB, of all solid waste disposed of at each disposal site. The fee is currently set at \$1.34 per ton of solid waste disposed.

Section 48007 of the Public Resources Code provides that recycled materials and inert waste removed from the waste stream and not disposed of in a solid waste landfill shall not be included for the purpose of assessing the Integrated Waste Management Fee. "Inert waste removed from the waste stream and not disposed of in solid waste landfills" is defined, until January 1, 2002, to include the use, disposal, or placement of solely inert waste on property where surface mining operations are being conducted, or have been conducted previously, as long as the use, disposal, or placement is for purposes of reclamation as defined.

Also until January 1, 2002, for purposes of Section 48007, "inert waste" is defined to mean rock, concrete, brick, sand, soil, and cured asphalt only. Inert waste does not include any waste that meets the definition of "designated waste" or "hazardous waste" as specified.

The Integrated Waste Management Fee is collected by the Board and, after payment of refunds and administrative costs of collection, deposited in the Integrated Waste Management Account.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

### Proposed Law

This bill would extend the January 1, 2002, operative date on the exemption for the use, disposal, or placement of solely inert waste on property where surface mining operations are being conducted or have been conducted previously as long as the use, disposal, or placement is for purposes of reclamation. This bill would repeal the exemption as of the January 1 following the operative date of the regulations adopted by the IWMB pursuant to Section 48007.5.

This bill would also add Section 48007.5 requiring the IWMB, on or before January 1, 2005, to adopt and file with the Secretary of State regulations that establish an appropriate level of oversight of the management of construction and demolition waste, and the management of inert waste at mine reclamation sites.

### Background

Assembly Bill 939 (Chapter 1095, Statutes of 1989) added Section 48000 to the Public Resources Code to require each operator of a solid waste landfill to pay a quarterly fee to the Board based on all solid waste disposed of at each disposal site on or after January 1, 1990. That bill also added Section 48007 which provided that recycled materials and inert waste removed from the waste stream and not disposed of in a solid waste landfill were not to be included for the purpose of the fees.

In 1999, SB 515 (Chesbro, Chapter 600) amended Section 48007 to exempt from the disposal fee, until January 1, 2002, the placement of solely inert wastes on property where surface mining operations are conducted. "Inert waste" was defined for purposes of Section 48007 to mean rock, concrete, brick, sand, soil, and cured asphalt only.

Senate Bill 515 stated legislative findings and declarations that the amendments made to Section 48007 of the Public Resources Code did not constitute a change in, but constituted a clarification of, existing law. It was the intent of the Legislature, in enacting SB 515, to remedy any ambiguity in the applicability of the Integrated Waste Management Fee to any inert waste disposal facility that is issued a solid waste facility permit prior to January 1, 2002, and to set forth an equitable resolution of the fee applicability issue by establishing a date certain upon which the fee will become applicable to any permitted inert disposal facility.

### COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Waste Management, Inc. and is intended to make it clear that, for purposes of fee assessments, the placement of inert wastes in mine reclamation facilities constitutes removal from the waste stream.
2. **Summary of July 17, 2001 amendments.** These amendments, which were recommended by the Senate Environmental Quality Committee to avoid confusion, delete Section 48007.1 and incorporate its provisions into Section 48007, as added by Section 7 of Chapter 600 of the Statutes of 1999.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

3. **Summary of April 26, 2001 amendments.** These amendments extend the exemption on the use, disposal, or placement of solely inert waste on property where surface mining operations are being conducted or have been conducted previously, until regulations adopted by the IWMB become operative, and require the IWMB to promulgate the specified regulations on or before January 1, 2005.

These amendments were recommended in the Natural Resources Committee bill analysis. The analysis stated that the IWMB has been working toward implementing regulations to provide permanent guidance on the tipping fee charge for inert waste going to surface mine operations sites, including whether or not the fee should be imposed on such waste. Because those regulations are still being considered by the IWMB and not likely to be approved by the end of this year, it was recommended that the bill be amended to require such regulations be promulgated by the IWMB by December 31, 2003.

4. **Board staff does not foresee any administrative problems with this measure.** Extending the current exemption for inert waste disposed of in surface mine reclamation sites until regulations adopted by the IWMB become operative would not be problematic for the Board.

## **COST ESTIMATE**

There would be no administrative costs associated with this bill.

## **REVENUE ESTIMATE**

### **Background, Methodology, and Assumptions**

**Background.** Under current law, inert waste used for purposes of reclamation where surface mining operations are being conducted are excluded in the assessment of the Integrated Waste Management Fee. For purposes of this exclusion, Section 48007 of the Public Resources Code specifically defines inert waste as rock, concrete, brick, sand, soil, and cured asphalt.

**Methodology.** According to the Excise Taxes Division of the Special Taxes Department, this bill would probably impact fewer than five fee payers. The Excise Taxes Division provided estimates of the fees that would be affected by this bill for current fee payers. Estimates were made of average tonnage of inert waste per year using information from audits of the affected fee payers for 12 to 25 quarters. Based on Board records, the state would annually forego approximately \$1.7 million in integrated waste management fees from inert waste through the extension of the current exemption.

**Assumptions.** We assume that the annual amount of inert waste that will be produced by these taxpayers in the future will not change significantly from the amount calculated from these administrative records.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

**Revenue Summary**

If this bill is enacted, and if regulation continues the exemption, approximately \$1.7 million less in fees would be paid in fiscal year 2002-03 (the first complete fiscal year with the exemption, if the bill passes) and following years.

Analysis prepared by:	Cindy Wilson	445-6036	7/20/01
Revenue prepared by:	Joe Fitz	323-3802	
Contact:	Margaret S. Shedd	322-2376	

rs

0173-3CW.DOC

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*